IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION Nos.9440 of 2004, 9458 of 2004,

9463 of 2004, 9499 of 2004, 9500 of 2004, 9501 of 2004,

9649 of 2004, 9948 of 2004 and 10061 of 2004

1)WRIT PETITION NO : 9440 of 2004:

Between:

1 M/s.Highlight Electricals, C-5, Industrial Estate, Mahabubnagar, rep. by its Partner Sri Syed Khaleeluddin, s/o. Syed Moinuddin.
2 M/s.Raghavendra Transforms repairing center, Wanaparthy, Mahabubnagar Dist., rep. by its Proprietor S.Gnanendar, s/o. S.Roshaiah. … Petitioners

AND

1 The Central Power Distribution Company of A.P. Ltd., Singareni Bhavan, Red Hills, Hyderabad rep. by its Chief General Manager (operations).
2 The Superintending Engineer (O), Central Power Distribution Company of A.P. Ltd., at Mahabubnagar, Mahabubnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction preferably writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/DE(O&M)/AE/F.NO.152/712 dt 22-5-2004 and also letter No. CGM/OP/CPDCL/DE/(O&M)/AE/F,152/736 dt.24-5-2004 issued by respondent No. 1 as illegal, arbitrary, discriminatory and violative of principles of natural justice and consequently direct the respondent not to bifurcate the division wise repairing centers into sub division till the contract period of 2 years of the petitioners is completed, and also consequently direct the respondents to enhance the rates as

per quoted rates in so far as petitioners are concerned on par with other contracts of other districts.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents : Smt.M.VINOBHA DEVI

2)WRIT PETITION NO : 9458 of 2004:

Between:

M/s. Vijay Industries, rep. by its Proprietor Soma Vijay Prakash,
s/o. late S.Narayana, R/o. 1-1-256/8/A, Chikkadapally, Hyderabad.

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by its Chief General Manager (operations), Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Nalgonda.

3 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Nalgonda

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction preferably writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/DE(O&M)/AE/F.NO.152/743, dt 25-5-2004 issued by the Chief General Manager (Operation), A.P.C.P.D.C.L., Hyderabad, the first respondent herein, as illegal, arbitrary and violative of principles of natural justice and also Article 14 of the Constitution of India and set aside the same.

Counsel for the Petitioner: MR. V.Sudhakar Reddy.

Counsel for the Respondents : Smt.M.VINOBHA DEVI

3)WRIT PETITION NO : 9463 of 2004:

Between:

M/s. Jyothi Electrical Enterprises, rep. by Smt. P.Manohari,
w/o. P.Subba Rao, R/o. Plot No.46, Shivbagh colony,
Ameerpet, Hyderabad

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by its Chief General Manager (operations), Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Nalgonda.

3 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Nalgonda

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/ DE(O&M)/ AE/F.NO.152/743, dt 25-5-2004 issued by the Chief General Manager (Operation), A.P.C.P.D.C.L., Hyderabad, the first respondent herein, as illegal, arbitrary and violative of principles of natural justice and also Article 14 of the Constitution of India and set aside the same.

Counsel for the Petitioner: MR. V.Sudhakar Reddy.

Counsel for the Respondents : Smt.M.VINOBHA DEVI

4)WRIT PETITION NO : 9499 of 2004:

Between:

M/s. Jyothi Electrical Enterprises, rep. by Smt. P.Manohari,
w/o. P.Subba Rao, r/o. Plot No.46, Shivbagh colony,
Ameerpet, Hyderabad

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by its Chief General Manager (operations), Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Medak.

3 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Medak

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/ DE(O&M)/ AE/F.NO.152/734, dt 24-5-2004 issued by the Chief General Manager (Operation), A.P.C.P.D.C.L., Hyderabad, the first respondent herein, as illegal, arbitrary and violative of principles of natural

justice and also Article 14 of the Constitution of India and set aside the same and consequently direct the respondents not to disturb the work allotted to the petitioner i.e. repairs to sick distribution transformers at Sangareddy division.

Counsel for the Petitioner: MR. V.Sudhakar Reddy.

Counsel for the Respondents : Smt.M.VINOBHA DEVI

5)WRIT PETITION NO : 9500 of 2004:

Between:

M/s. Prudhvi Enterprises, rep. by its Managing Director K.Srinivas Chakravarthy, s/o. K.Brahmeswara Rao, plot no.844, Vivekananda nagar colony, Kukatpally, Hyderabad.

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by its Chief General Manager (operations), Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Rangareddy-south.

3 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Rangareddy-south.

4 M/s. K.K.Rao Engineering Works Pvt Ltd., rep. by its Managing Director K.Koteswara Rao, plot no.581/1, IDA, Uppal, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/ DE(O&M)/ AE/F.NO.152/737, dt 24-5-2004 issued by the Chief General Manager (Operation), A.P.C.P.D.C.L., Hyderabad, the first respondent herein, as illegal, arbitrary and violative of principles of natural justice and also Article 14 of the Constitution of India and set aside the same, and consequently direct the respondents not to disturb the work allotted to the petitioner i.e. repairs to sick distribution transformers at Saroornagar division.

Counsel for the Petitioner: MR. V.Sudhakar Reddy.

Counsel for the Respondents : Smt.M.VINOBHA DEVI

6)WRIT PETITION NO : 9501 of 2004:

Between:

M/s. S.R. Engineers & Contractors, rep. by its Proprietor
B.Subbarao, s/o. B.C.Nandaiah, r/o. 77C, Sanjeevareddy
Nagar colony, Hyderabad.

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by its Chief General Manager (operations), Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Rangareddy-south.

3 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Rangareddy-south.

4 M/s. K.K.Rao Engineering Works Pvt Ltd., rep. by its Managing Director K.Koteswara Rao, plot no.14, street no.3, Habsiguda, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the Memo. No.CGM/OP/CPDCL/ DE(O&M)/ AE/F.NO.152/737, dt 24-5-2004 issued by the Chief General Manager (Operation), A.P.C.P.D.C.L., Hyderabad, the first respondent herein, as illegal, arbitrary and violative of principles of natural justice and also Article 14 of the Constitution of India and set aside the same, and consequently direct the respondents not to disturb the work allotted to the petitioner i.e. repairs to sick distribution transformers at Vikarabad division.

Counsel for the Petitioner: MR. V.Sudhakar Reddy.

Counsel for the Respondents : Smt.M.VINOBHA DEVI

7)WRIT PETITION NO : 9649 of 2004:

Between:

M/s.Enen Electrical Engineers (P) Limited, 11-1-474, Arvind Nagar,
Anantapur, rep. by its Managing Director T.Aswartha Reddy,
s/o. T.Chenna Reddy, r/o. Arvind Nagar, Anantapur.

..... PETITIONER

AND

1 The Central Power Distribution Company of A.P.Ltd., rep. by its General

Manager (operations & maintenance), Hyderabad

2 The Central Power Distribution Company of A.P.Ltd., rep. by its Superintending Engineer (Operations), Anantapur.

3 M/s. Chowdeswari Electrical Engineering works, rep. by its Proprietor G.Lakshminarayana Reddy, S/o. Chinna Obulesu Reddy, aged 31 years, 33/11 KVA Sub Station, Tadpatri, District.
4 M/s. International Transformers, rep. by its Proprietor J. Shankar Babu S/o. N.R.G. Narasinga Rao, aged 39 years, 33/11 KVA Sub Station, Rayadurg, Anantapur District.
5 M/s. Trans and Trade, rep by its Proprietor, R. Obi Reddy, S/o. T. Adinarayana Reddy, aged 46 years 33/11 KVA Sub Station Compound, Penukonda, Anantapur District.
6 M/s. Siva Tansformers, rep by its Proprietor, Aswarthanarayana Reddy, S/o. P. Nanji Reddy, aged 46 years, 33/11 KVA Sub Station Compound, Madakasira, Anantapur District.
7 M/s. Madhura Powers Mechs, Anantapur, rep. by its Proprietor, I. Neelakanta Reddy, S/o. S. Baya Reddy, aged 52 years, residing at B-8 Industrial Estate, Anantapur.
8 M/s. Swarna Industries, Anantapur, rep. by its Proprietor B. Madhava Reddy, S/o. B.P. Narasimha Reddy, aged 52 years residing at Plot CT Industrial Estate, Anantapur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the proceedings of the 2nd respondent issued in Memo No. SE/O/ATP/T.Sub.Er/D.NO. 572/04 dated 7-6-2004 as illegal arbitrary.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents 1 & 2 : SMT.M.VINOBHA DEVI

Counsel for the respondents 3 to 8: None appeared.

8)WRIT PETITION NO : 9948 of 2004:

Between:

M/s. Sai Sri Engineering Enterprises, plot no.24/A,
Dr. Subbarao colony, Picket, Seconderabad, rep. by
its Partner A.Ravinder Reddy, s/o. Ramachandra Reddy
..... PETITIONER

AND

1 The Chief General Manager (operation), A.P.C.P.D.L., Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P. C.P.D.L., Rangareddy-south.

Hyderabad.
3 The Divisional Engineer (operation), Vikarabad APCPDL, Rangareddy dist.

4 M/s. S.R.Engineering & Contractors, 77/-C, Sanjeevareddynagar colony, Hyderabad-38.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the proceedings of the second respondent in Lr. No. SE/Op/RRC(S)/Tech/D.No.637/04, Dt. 21.05.2004 in allotting the work contract of repairs of sick distribution transformers at Vikarabad division, R.R. circle (south) to the fourth respondent as illegal, arbitrary as the same was allotted to the petitioner and consequently direct the respondents 1 to 3 to continue the petitioner herein to execute the works at SPM Centre, Vikarabad, R.R. Circle (south).

Counsel for the Petitioner: MR. P.Giri Krishna

Counsel for the Respondents 1 to 3: Smt.M.VINOBHA DEVI

Counsel for the respondent no.4: None appeared.

9)WRIT PETITION NO : 10061 of 2004:

Between:

M/s. Sri Venka Sai Electrical Works, Medak Road,
Jogipet, rep. by Kedari Raja Reddy, S/o. Narayana Reddy,
r/o. 9-3-140/1, Srilok Complex, Near Rythu Bazar,
Medak road, Siddipet
..... PETITIONER

AND

1 The Chief General Manager (operation), A.P.C.P.D.L., Singareni Bhavan, Red Hills, Hyderabad

2 The Superintending Engineer (Operation), A.P.C.P.D.L., at Sangareddy.
3 The Divisional Engineer, Electrical ./ Tr. & Pr., Sangareddy at Medak dist.

4. M/s. Jyothi Electrical Enterprises, rep. by Smt. B.Manhari, w/o. B.Subba Rao, r/o. plot no.46, Shivbagh colony, Ameerpet, Hyderabad.

(R4 is impleaded as per Court Order dated 23-07-2004 in W.P.M.P.No.14325 of 2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus

declaring the action of the respondents in not allotting the work of repairs of failed distribution transformers at Sangareddy SPM center, Medak district to the petitioner and seeking to allot the same to others as illegal, arbitrary and consequently direct the respondents 1 to 3 to allot the work as per the Lr. No. SE/OP/MDK/Pur-Repairs/D.No.374/04, dt. 02.06.2004.

Counsel for the Petitioner: MR. P.Giri Krishna

Counsel for the Respondents 1 to 3: Smt.M.VINOBHA DEVI

Counsel for the respondent no.4: MR.V.SUDHAKAR REDDY

This Court delivered the following:
THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos.9440 of 2004, 9458 of 2004,

9463 of 2004, 9499 of 2004, 9500 of 2004, 9501 of 2004,

9649 of 2004, 9948 of 2004 and 10061 of 2004

COMMON ORDER:

In all these Writ Petitions, claim of the petitioners is against the action of the respondents herein in bifurcating the repair works as already entrusted to them in pursuance of the contract entered into. According to the petitioners, even though the tender notification has been issued by the respondents and ultimately on opening thereof, the respective works were entrusted to them since they quoted lowest rates, and under due intimation the works were awarded. According to them, they have commenced the work after complying with all the formalities. The request made by the petitioners in regard to the rates dispute, was rejected by the respondents, and yet, by impugned proceedings, the respondents sought to divide the work by establishing subdivision-wise repair centers, which is quite contrary to the contract entered into with the petitioners. Hence, it is contended that there is absolutely no justification for such an action and the same is bad, illegal and void.

In the counter affidavit filed by the respondents, it is stated that it is only after due communications and seeking willingness to take up the works at lowest comparative rates, the matter was entrusted to them, which has been accepted by the petitioners. However, having found demand for the work and on the recommendations of the Superintending Engineer for opening more centers and allot them to L2 and L3 bidders, the allotments are being made to them in terms of para 5.5.1 of purchase manual enabling the respondents for consideration of the bidders up to L4 only. Therefore, the petitioners can not make any grievance at this stage having disputed with the rates, etc. and thus they would not have any enforceable right. Hence, the Writ Petitions are liable to be dismissed.

Considering the submissions made and on perusal of material, the main question which arises for consideration is as to whether the respondents are entitled to follow up the allotment by splitting and giving them to L2 and L3 bidders ?

There is no dispute to the fact that in terms of tender notification issued by the respondents, the petitioners submitted their respective bids and subsequently, there have been certain representations by the petitioners themselves in regard to the rates. In spite of allocation of contract, the petitioners themselves were going back and requesting the respondents to vary with the rates since the rates at which they accepted are not, in fact, workable. On the proposal given by the Superintending Engineer and following the procedure as contemplated in para 5.5.1 of the purchase manual, the respondents have chosen to allot the work by splitting, in favour of L2 and L3 bidders. In fact, having participated in the tenders and after finalisation thereof, it is not open for the petitioners to make complaints against the rates. Necessarily, it contemplates in the

exigency to make variance for the purpose of work which is contemplated under the contract. Any non-cooperation from the petitioners in respect of such work, would only lead to practical situation where the repair works come to stand still which will not be in the public interest. Further, there being no dispute in regard to the procedure as contemplated for allotting the same to L2 and L3 bidders, the petitioners have no enforceable right to complain against any action. In the circumstances, I do not find any merits in the above Writ Petitions.

The Writ Petitions are, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

20.12.2004

DRK

Copy to:

1. The Chief General Manager (Operation) Central Power Distribution Company of A.P. Ltd., Singareni Bhavan, Red Hills, Hyderabad

2. The General Manager (Operation & Maintenance) Central Power Distribution Company of A.P.Ltd., Hyderabad

3. The Superintending Engineer (O), Central Power Distribution Company of A.P. Ltd., at Mahabubnagar, Mahabubnagar Dist.

4. The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Nalgonda

5. The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Nalgonda.
6. The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Medak.
7 The Divisional Engineer (Transformers), A.P. Central Power Distribution

Company Limited, Medak

8 The Superintending Engineer (Operation), A.P. Central Power Distribution Company Ltd., Rangareddy-south.
9 The Divisional Engineer (Transformers), A.P. Central Power Distribution Company Limited, Rangareddy south

10 The Superintending Engineer (Operations) Central Power Distribution Company of A.P.Ltd., Anantapur.
11 The Divisional Engineer (operation), Vikarabad APCPDL, Rangareddy district

12 The Superintending Engineer (Operation), A.P.C.P.D.L., at Sangareddy.
13 The Divisional Engineer, Electrical ./ Tr. & Pr., Sangareddy at Medak district

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